

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL NO. 1227 OF 1984****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of
the judgment ?

4 Whether this case involves a substantial question of
law as to the interpretation of the Constitution of
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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**GULABBEN WD/O. NANUBHAI BHIKHABHAI
PATEL & ORS, - Appellant(s)**

Versus

MANILAL BACHUBHAI PATEL & ORS. - Respondent(s)

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Appearance :

Shri Deep D. Vyas for Appellant(s) : 1 - 4.

Ms. Archana Acharya for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG**Date : 03/09/2007****ORAL JUDGMENT**

The appellants-claimants, being aggrieved by the award

dated 20th March, 1984 passed by the learned M. V. Claim Tribunal, Valsad at Navsari in M. V. Claim Petition No.256 of 1982, are before this Court with a submission that the learned Tribunal below erred in awarding less compensation in view of the evidence brought on the record.

2. As no cross appeal or cross objections has/have been filed by the other side, this Court is not required to enter into the question of rashness, negligence and liability of the respondents to pay the amount.

3. After taking me through the evidence available on the record, Shri Deep Vyas, learned Counsel for the appellants, submitted that the learned Tribunal below erred in deducting a sum of Rs.800/- from the yearly agricultural income of Rs.2,000/- and erred in deducting a sum of Rs.300/- from the monthly income of Rs.650/- earned by the deceased from his factory business. According to him, when the family consists of six persons, then, deduction of 40% to 46% under the different heads would be on the higher side and the Court should not lose sight of the fact that the person would not have the lion's share when he has to maintain the youngs in the family.

4. Ms. Archana Acharya, learned Counsel for the respondent-Insurance Company, on the other hand, submitted that the award made

by the learned Tribunal below is in accordance with law and does not call for any interference.

5. So far as the yearly income from agricultural operations, etc. is concerned, this Court does not find any difficulty in finding that the learned Tribunal below was justified in assessing the said agricultural income to be Rs.2,000/- per year and in deducting an amount of Rs.800/- out of the same under the head of personal expenses of the deceased.

6. So far as the income from the diamond cutting factory is concerned, the learned Tribunal below, after holding that the monthly income could be Rs.650/-, firstly deducted a sum of Rs.100/- under the head of personal expenses and thereafter, again deducted a sum of Rs.200/- under the head of personal expenses of the deceased for the articles like food, clothes, etc.

7. In the opinion of this Court, such double deductions were not permissible. The deceased was required to maintain the family of six persons (including his own self). If a sum of Rs.300/- is kept aside for the personal expenses of the deceased and only a sum of Rs.350/- is left for five persons, then, each of them would be getting a sum of Rs.2.40 per day. It would be impossible for a man to survive with an amount less

than Rs.2.50 per day.

8. Taking into consideration the totality of the circumstances, I hold that the dependency can be well assessed at Rs.500/- per month, that is, a sum of Rs.150/- in addition to what the learned Tribunal has already assessed. The yearly dependency would be Rs.1,800/-. Applying the multiplier of 15 (fifteen), as applied by the learned Tribunal below, I hold that the appellants would be entitled to an additional amount of Rs.27,000/-. Each of the respondents shall be held liable jointly and severally to pay the additional amount with 6% interest per annum from the date of the claim petition till realisation.

9. The appeal is accordingly allowed to the extent indicated above. No costs.

[R.S.Garg, J.]

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